

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION

ROMAN NOEL,

Plaintiff,

VS.

DWIGHT PEETE, RICHARD SWAIN,  
JODY McWATERS, and SHIRLEY LEWIS,

Defendants.

CIVIL ACTION FILE  
NO. 7:03-CV-70 (HL)

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NOTICE OF FILING OF MOTIONS TO DISMISS

Defendants Peete, Swain and McWaters have filed a motion seeking dismissal of the above-styled action alleging that plaintiff's claim is barred by the running of the two year statute of limitations and that defendant McWaters has never been served with process. The plaintiff is advised of his opportunity to respond to the Defendants' motion to dismiss pursuant to the dictates of the following notice:

Since plaintiff is proceeding *pro se*, the court deems it appropriate and necessary to advise him of his right to respond to said motion and of the consequences which he may suffer if he fails to file a response thereto.

Plaintiff is advised that:

- (1) A MOTION TO DISMISS have been filed herein by the above named defendants.
- (2) plaintiff has the right to oppose the granting of said motion; and
- (3) if plaintiff fails to oppose said motion, his complaint may be dismissed as to those defendants.

Plaintiff is further advised that under the procedures and policies of this court, motions to

dismiss are normally decided on briefs. The court considers the pleadings and briefs filed by the parties in deciding whether dismissal is appropriate under the law.

**FAILURE OF THE PLAINTIFF HEREIN TO RESPOND TO THE MOTION TO DISMISS MAY RESULT IN THE GRANTING OF THE MOTION.** Upon the recommendation of the Magistrate Judge, the District Judge could then grant the motion to dismiss. There would be no trial or further proceedings herein as to Defendants whose motion was granted.

Accordingly, the plaintiff may file a response to said motion to dismiss **WITHIN TWENTY(20) DAYS OF RECEIPT OF THIS ORDER.** Thereafter, the court will consider the motion and any opposition to same filed by the plaintiff.

**SO NOTICED**, this 3<sup>rd</sup> day of February 2006.

/s/ Richard L. Hodge  
RICHARD L. HODGE  
UNITED STATES MAGISTRATE JUDGE